CONTENTS

1 EMPLOYEES

Ralph D. Mawdsley

Introduction / 2
Discrimination in Employment / 2
- Race / 3
- Religion / 4
- Sex / 4
- Age / 6
- Handicap / 6

Substantive Constitutional Rights / 7
- Speech / 8
- Association / 8
- Privacy / 9
- Substantive Due Process / 9

Procedural Due Process / 10
- Liberty and Property Interests / 11
- Aspects of Notice / 12
- Aspects of Hearing / 13

Dismissal, Nonrenewal, Demotion, and Discipline / 15
- Insubordination / 16
- Unprofessional Conduct, Unfitness, Willful Neglect of Duty / 17
- Immorality / 18
- Incompetence / 18
- Compliance with School Board Policies and State Statutes / 19

Reduction-in-force and Involuntary Leaves of Absence / 21
- Necessity for Reduction-in-force / 22
- Elimination of Position / 22
- Selection of Employees / 22
- Realignment/Reassignment / 23
- Call-back Rights / 24

Contract Disputes / 25
- Board Policies and Contract Stipulations / 25
- Administrative Regulations and Statutory Provisions / 26

Tenure / 28
- Tenure by Default or Acquiescence / 29

Certification / 30
- Certification Standards / 30
- Decertification, Revocation, or Suspension /30

2 BARGAINING

Stephen B. Thomas

Introduction / 33
Constitutional Issues / 33
Recognition and Representation Issues / 35
Unit Determination / 35
Supervisory, Managerial, and Confidential Employees / 35
Substitute, Part-time, and Nonprofessional Employees / 36
Rights and Obligations of Exclusive Bargaining Representatives / 37
Union Rights / 37
Obligations of Exclusive Representatives / 38
Scope of Bargaining / 39
Mandatory Topics of Bargaining / 39
Prohibited Topics of Bargaining / 41
Grievability and Arbitrability /42
Presumption and Arbitrability /42
Who Determines / 43
Judicial Review / 45
Propriety of Arbitral Awards and Agency Decisions / 45
Salary Issues / 45
Teaching Schedule / 47
Supplemental Duties / 47
Bargaining Unit Work / 48
Use of Certified Employees / 50
School Calendar / 50
Annexed and Consolidated Districts / 50
Dismissal, Nonrenewal, Reduction-in-force, Layoff, and Demotion / 51
Promotion / 55
Impasse and Fact-finding / 55
Strikes and Sanctions / 55
Conclusion / 56

3 PUPILS

Henry S. Lufler, Jr.

Introduction / 58
Public School Assignment, Tuition, and Transportation / 59
Tuition and Assignment / 59
Transportation / 61
Home Instruction / 63
Compulsory Attendance / 66
Private and Parochial Schools / 68

Substantive Rights of Students / 69
Search and Seizure / 69
First Amendment Religious Rights / 72
First Amendment Freedom of Expression / 76
Sanctions for Student Misconduct / 79
Suspensions and Expulsions / 81
Corporal Punishment / 83
Desegregation / 85
Cross-district Remedies / 85
Desegregation Plan Oversight / 89
State Court Cases / 93
Attorneys' Fees / 93

4 HANDICAPPED

Nelda H. Cambron-McCabe

Introduction / 95
Entitlement to Services / 96
Procedural Safeguards / 97
Rights of Parents and Guardians / 97
Change in Placement / 98
Administrative Remedies / 101
Placement / 103
Least Restrictive Environment / 104
Private Facilities / 106
Related Services / 109
Discipline / 110
Remedies / 111
Compensatory Services / 111
Attorneys' Fees / 112
Federal Funding / 118
State Law / 119
Discrimination Under the Rehabilitation Act, Section 504 / 121
Students / 121
Employees / 122
Handicapped Persons / 122
Discrimination Claims / 123
Otherwise Qualified Individuals / 124
Reasonable Accommodation for Otherwise Qualified Individuals / 125

5 TORTS

William J. Evans, Jr.

Introduction / 128
Negligence / 129
Student Injuries / 129
Off School Property / 130
School Settings During School Hours / 131
En Route to and from School / 132
School Buildings and Grounds / 133
School-related Activities / 134
Educational Malpractice / 134
Negligence Defenses / 135
Immunity / 135
Common Law (Governmental Immunity) / 136
Statutory Immunity / 138
Other Defenses / 138
Notice of Claim / 138
Comparative Negligence / 140
Liability Insurance / 140
Attorney Fees / 142
Employee Injuries/Workers' Compensation / 143
Defamation / 145
Tortious Interference with a Contract / 147
Products Liability / 148
Construction Contracts / 149
Constitutional Torts / 149
Student Initiated Cases / 151
Employee Initiated Cases / 154

6 SPORTS

Linda A. Sharp

Introduction / 156
Eligibility / 156
Discipline / 156
Academic Issues / 157
The Eight Semester Rule / 157
Limitation on Years of Eligibility / 158
Transfer / 158
Drug Testing / 159
Equality of Programs / 159
General / 159
Girl to Play on Boys' Team / 160
Boy to Play on Girls' Team / 160
Enforcement of Rules / 161
Probation/Sanction / 161

Tort / 162
Intentional / 162
Reckless Misconduct / 162
Defamation / 162
Educational Exploitation / 163
Negligence / 163
Participants / 163
Spectators / 166
Employment / 167
Adverse Employment Decisions / 167
General / 167
Refusal to Renew Coaching Contract / 168
Resignation / 168
Neglect of Duty / 169
Contract Disputes / 169
Discrimination / 170
Race / 170
Sex / 171
First Amendment Issues / 172
Miscellaneous / 173
Public Records / 173
Collective Bargaining / 174

7 FINANCE

Bettye MacPhail-Wilcox and Bruce Beezer

Introduction / 175
Public Funds for Private Schools / 176
Sources and Allocations of Public School Funds / 177
State School Finance Programs / 177
Local Funds for Education / 182
Federal Funds for Education / 183
School Fees / 186
School Activity Funds / 188
School Tax Issues / 188
Tuition / 188
Tax Assessment and Collection / 189
Tax Exemptions / 190
Use of School Tax Base Revenues / 191
Tax Elections / 192
Tax Revenue Disbursement / 193
Bond Issuance / 195
Delinquent School Taxes / 196

8 HIGHER EDUCATION

Robert M. Hendrickson with Dorothy E. Finnegan

Introduction / 198
Intergovernmental Relations / 199
Employees / 204
- Discrimination in Employment / 204
  - Title VI / 204
  - Title VII / 205
  - Equal Pay Act / 208
  - Title IX / 209
  - Age Discrimination / 209
  - Rehabilitation Act of 1973 / 211
  - Hiring Discrimination / 211
- Nontenured Faculty / 211
  - First Amendment Speech / 211
  - Nonrenewal Procedures / 211
  - Part-time Faculty / 215
- Tenured Faculty / 215
  - Termination for Cause / 215
  - Denial of Employee Privileges / 217
  - Termination Due to Financial Exigency or Program Elimination / 219
- Collective Bargaining / 219
- Administration and Staff / 221
  - Denial of Employee Benefits / 225
  - Sexual Harassment / 226

Students / 226
- Admissions / 226
- Nonresident Tuition / 227
- Financial Aid / 227
- First Amendment / 231
  - Freedom of Religion / 231
  - Freedom of Speech / 231
  - Freedom of Expression / 233
  - Freedom of Association / 233
- Dismissal / 234
  - Disciplinary Dismissal / 234
  - Academic Dismissal / 235
- Other Constitutional Issues / 238

Liability / 238
- Personal Injury / 238
- Workers' Compensation / 241
- Contract Liability / 242
- Deceptive Practices / 244

Negligence / 244
Medical Malpractice / 245
Indemnification / 245
Antitrust / 246
Patents and Copyrights / 246
Estates and Wills / 247